

**TEXT OF H.R. 2761, AS ORDERED REPORTED
BY THE COMMITTEE ON FINANCIAL SERVICES**

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Terrorism Risk Insur-
3 ance Revision and Extension Act of 2007”.

4 **SEC. 2. TERMINATION OF PROGRAM.**

5 Subsection (a) of section 108 of the Terrorism Risk
6 Insurance Act of 2002 (15 U.S.C. 6701 note) is amended
7 by striking “December 31, 2007” and inserting “Decem-
8 ber 31, 2022”.

9 **SEC. 3. REVISION OF TERRORISM INSURANCE PROGRAM.**

10 (a) IN GENERAL.—The Terrorism Risk Insurance
11 Act of 2002 is amended—

12 (1) by striking sections 101, 102, and 103 and
13 inserting the following new sections:

14 **“SEC. 101. CONGRESSIONAL FINDINGS AND PURPOSE.**

15 “(a) FINDINGS.—The Congress finds that—

16 “(1) the ability of businesses and individuals to
17 obtain property and casualty insurance at reasonable
18 and predictable prices, in order to spread the risk of
19 both routine and catastrophic loss, is critical to eco-
20 nomic growth, urban development, and the construc-
21 tion and maintenance of public and private housing,

1 as well as to the promotion of United States exports
2 and foreign trade in an increasingly interconnected
3 world;

4 “(2) property and casualty insurance firms are
5 important financial institutions, the products of
6 which allow mutualization of risk and the efficient
7 use of financial resources and enhance the ability of
8 the economy to maintain stability, while responding
9 to a variety of economic, political, environmental,
10 and other risks with a minimum of disruption;

11 “(3) the ability of the insurance industry to
12 cover the unprecedented financial risks presented by
13 potential acts of terrorism in the United States can
14 be a major factor in the recovery from terrorist at-
15 tacks, while maintaining the stability of the econ-
16 omy;

17 “(4) widespread financial market uncertainties
18 have arisen following the terrorist attacks of Sep-
19 tember 11, 2001, including the absence of informa-
20 tion from which financial institutions can make sta-
21 tistically valid estimates of the probability and cost
22 of future terrorist events, and therefore the size,
23 funding, and allocation of the risk of loss caused by
24 such acts of terrorism;

1 “(5) a decision by property and casualty insur-
2 ers to deal with such uncertainties, either by termi-
3 nating property and casualty coverage for losses
4 arising from terrorist events, or by radically esca-
5 lating premium coverage to compensate for risks of
6 loss that are not readily predictable, could seriously
7 hamper ongoing and planned construction, property
8 acquisition, and other business projects, generate a
9 dramatic increase in rents, and otherwise suppress
10 economic activity;

11 “(6) the United States Government should co-
12 ordinate with insurers to provide financial com-
13 pensation to insured parties for losses from acts of
14 terrorism, contributing to the stabilization of the
15 United States economy in a time of national crisis,
16 and periodically assess the ability of the financial
17 services industry to develop the systems, mecha-
18 nisms, products, and programs necessary to create a
19 viable financial services market for private terrorism
20 risk insurance that will lessen the financial partici-
21 pation of the United States Government;

22 “(7) in addition to a terrorist attack on the
23 United States using conventional means or weapons,
24 there is and continues to be a potential threat of a
25 terrorist attack involving the use of unconventional

1 means or weapons, such as nuclear, biological, chem-
2 ical, or radiological agents;

3 “(8) as nuclear, biological, chemical, or radio-
4 logical acts of terrorism (known as NBCR terrorism)
5 present a threat of loss of life, injury, disease, and
6 property damage potentially unparalleled in scope
7 and complexity by any prior event, natural or man-
8 made, the Federal Government’s responsibility in
9 providing for and preserving national economic secu-
10 rity calls for a strong Federal role in ensuring finan-
11 cial compensation and economic recovery in the
12 event of such an attack;

13 “(9) a report issued by the Government Ac-
14 countability Office in September 2006 concluded
15 that ‘any purely market-driven expansion of cov-
16 erage’ for NBCR terrorism risk is ‘highly unlikely in
17 the foreseeable future’, and the September 2006 re-
18 port from the President’s Working Group on Finan-
19 cial Markets concluded that reinsurance for NBCR
20 terrorist events is virtually unavailable and that
21 ‘[g]iven the general reluctance of insurance compa-
22 nies to provide coverage for these types of risks,
23 there may be little potential for future market devel-
24 opment’;

1 “(10) group life insurance companies are im-
2 portant financial institutions whose products make
3 life insurance coverage affordable for millions of
4 Americans and often serve as their only life insur-
5 ance benefit;

6 “(11) the group life insurance industry, in the
7 event of a severe act of terrorism, is vulnerable to
8 insolvency because high concentrations of covered
9 employees work in the same locations, because pri-
10 mary group life insurers do not exclude conventional
11 and NBCR terrorism risks while most catastrophic
12 reinsurance does exclude such terrorism risks, and
13 because a large-scale loss of life would fall outside
14 of actuarial expectations of death; and

15 “(12) the United States Government should
16 provide temporary financial compensation to insured
17 parties, contributing to the stabilization of the
18 United States economy in a time of national crisis,
19 while the financial services industry develops the sys-
20 tems, mechanisms, products, and programs nec-
21 essary to create a viable financial services market for
22 private terrorism risk insurance.

23 “(b) PURPOSE.—The purpose of this title is to estab-
24 lish a temporary Federal program that provides for a
25 transparent system of shared public and private com-

1 pensation for insured losses resulting from acts of ter-
2 rorism, in order to—

3 “(1) protect consumers by addressing market
4 disruptions and ensure the continued widespread
5 availability and affordability of property and cas-
6 ualty insurance and group life insurance for all types
7 of terrorism risk, including conventional terrorism
8 risk and nuclear, biological, chemical, and radio-
9 logical terrorism risk;

10 “(2) allow for a transitional period for the pri-
11 vate markets to stabilize, resume pricing of such in-
12 surance, and build capacity to absorb any future
13 losses, while preserving State insurance regulation
14 and consumer protections (unless otherwise pre-
15 empted by this Act); and

16 “(3) provide finite liability limits for terrorism
17 insurance losses for insurers and the United States
18 Government.

19 **“SEC. 102. DEFINITIONS.**

20 “‘In this title, the following definitions shall apply:

21 “(1) ACT OF TERRORISM.—

22 “(A) CERTIFICATION.—The term ‘act of
23 terrorism’ means any act that is certified by the
24 Secretary, in concurrence with the Secretary of

1 State, the Secretary of Homeland Security, and
2 the Attorney General of the United States—

3 “(i) to be an act of terrorism;

4 “(ii) to be a violent act or an act that
5 is dangerous to—

6 “(I) human life;

7 “(II) property; or

8 “(III) infrastructure;

9 “(iii) to have resulted in damage with-
10 in the United States, or outside of the
11 United States in the case of—

12 “(I) an air carrier or vessel de-
13 scribed in paragraph (9)(B); or

14 “(II) the premises of a United
15 States mission; and

16 “(iv) to have been committed by an
17 individual or individuals as part of an ef-
18 fort to coerce the civilian population of the
19 United States or to influence the policy or
20 affect the conduct of the United States
21 Government by coercion.

22 “(B) LIMITATION.—No act shall be cer-
23 tified by the Secretary as an act of terrorism
24 if—

1 “(i) the act is committed as part of
2 the course of a war declared by the Con-
3 gress, except that this clause shall not
4 apply with respect to any coverage for
5 workers’ compensation; or

6 “(ii) property and casualty insurance
7 and group life insurance losses resulting
8 from the act, in the aggregate, do not ex-
9 ceed \$5,000,000.

10 “(C) CERTIFICATION OF ACT OF NBCR
11 TERRORISM.—Upon certification of an act of
12 terrorism, the Secretary, in concurrence with
13 the Secretary of State, the Secretary of Home-
14 land Security, and the Attorney General of the
15 United States, shall determine whether the act
16 of terrorism meets the definition of NBCR ter-
17 rorism in this section. If such determination is
18 that the act does meet such definition, the Sec-
19 retary shall further certify such act of terrorism
20 as an act of NBCR terrorism.

21 “(D) DETERMINATIONS FINAL.—Any cer-
22 tification of, or determination not to certify, an
23 act as an act of terrorism or as an act of
24 NBCR terrorism under this paragraph shall be
25 final, and shall not be subject to judicial review.

1 “(E) NONDELEGATION.—The Secretary
2 may not delegate or designate to any other offi-
3 cer, employee, or person, any determination
4 under this paragraph of whether, during the ef-
5 fective period of the Program, an act of ter-
6 rorism, including an act of NBCR terrorism,
7 has occurred.

8 “(2) AFFILIATE.—The term ‘affiliate’ means,
9 with respect to an insurer, any entity that controls,
10 is controlled by, or is under common control with the
11 insurer.

12 “(3) AMOUNT AT RISK.—The term ‘amount at
13 risk’ means face amount less statutory policy re-
14 serves for group life insurance issued by any insurer
15 for insurance against losses occurring at the loca-
16 tions described in subparagraph (A) of paragraph
17 (9).

18 “(4) CONTROL.—An entity has ‘control’ over
19 another entity, if—

20 “(A) the entity directly or indirectly or act-
21 ing through 1 or more other persons owns, con-
22 trols, or has power to vote 25 percent or more
23 of any class of voting securities of the other en-
24 tity;

1 “(B) the entity controls in any manner the
2 election of a majority of the directors or trust-
3 ees of the other entity; or

4 “(C) the Secretary determines, after notice
5 and opportunity for hearing, that the entity di-
6 rectly or indirectly exercises a controlling influ-
7 ence over the management or policies of the
8 other entity; except that for purposes of any
9 proceeding under this subparagraph, there shall
10 be a presumption that any entity which directly
11 or indirectly owns, controls, or has power to
12 vote less than 5 percent of any class of voting
13 securities of another entity does not have con-
14 trol over that entity.

15 “(5) COVERED LINES.—The term ‘covered
16 lines’ means property and casualty insurance and
17 group life insurance, as defined in this section.

18 “(6) DIRECT EARNED PREMIUM.—The term ‘di-
19 rect earned premium’ means a direct earned pre-
20 mium for property and casualty insurance issued by
21 any insurer for insurance against losses occurring at
22 the locations described in subparagraph (A) of para-
23 graph (9).

24 “(7) EXCESS INSURED LOSS.—The term ‘excess
25 insured loss’ means, with respect to a Program

1 Year, any portion of the amount of insured losses
2 during such Program Year that exceeds the cap on
3 annual liability under section 103(e)(2)(A).

4 “(8) GROUP LIFE INSURANCE.—The term
5 ‘group life insurance’ means an insurance contract
6 that provides life insurance coverage, including term
7 life insurance coverage, universal life insurance cov-
8 erage, variable universal life insurance coverage, and
9 accidental death coverage, or a combination thereof,
10 for a number of individuals under a single contract,
11 on the basis of a group selection of risks, but does
12 not include ‘Corporate Owned Life Insurance’ or
13 ‘Business Owned Life Insurance,’ each as defined
14 under the Internal Revenue Code of 1986, or any
15 similar product, or group life reinsurance or
16 retrocessional reinsurance.

17 “(9) INSURED LOSS.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), the term ‘insured loss’
20 means any loss resulting from an act of ter-
21 rorism (including an act of war, in the case of
22 workers’ compensation) that is covered by pri-
23 mary or excess property and casualty insurance,
24 or group life insurance to the extent of the

1 amount at risk, issued by an insurer, if such
2 loss—

3 “(i) occurs within the United States;

4 or

5 “(ii) occurs to an air carrier (as de-
6 fined in section 40102 of title 49, United
7 States Code), to a United States flag ves-
8 sel (or a vessel based principally in the
9 United States, on which United States in-
10 come tax is paid and whose insurance cov-
11 erage is subject to regulation in the United
12 States), regardless of where the loss oc-
13 curs, or at the premises of any United
14 States mission.

15 “(B) LIMITATION FOR GROUP LIFE INSUR-
16 ANCE.—Such term shall not include any losses
17 of an insurer resulting from coverage of any
18 single certificate holder under any group life in-
19 surance coverages of the insurer to the extent
20 such losses are not compensated under the Pro-
21 gram by reason of section 103(e)(1)(D).

22 “(10) INSURER.—The term ‘insurer’ means any
23 entity, including any affiliate thereof—

24 “(A) that is—

1 “(i) licensed or admitted to engage in
2 the business of providing primary or excess
3 insurance, or group life insurance, in any
4 State;

5 “(ii) not licensed or admitted as de-
6 scribed in clause (i), if it is an eligible sur-
7 plus line carrier listed on the Quarterly
8 Listing of Alien Insurers of the NAIC, or
9 any successor thereto;

10 “(iii) approved for the purpose of of-
11 fering property and casualty insurance by
12 a Federal agency in connection with mari-
13 time, energy, or aviation activity;

14 “(iv) a State residual market insur-
15 ance entity or State workers’ compensation
16 fund; or

17 “(v) any other entity described in sec-
18 tion 103(f), to the extent provided in the
19 rules of the Secretary issued under section
20 103(f);

21 “(B) that receives direct earned premiums
22 for any type of commercial property and cas-
23 ualty insurance coverage, or, in the case of
24 group life insurance, that receives direct pre-

1 miums, other than in the case of entities de-
2 scribed in sections 103(d) and 103(f); and

3 “(C) that meets any other criteria that the
4 Secretary may reasonably prescribe.

5 “(11) INSURER DEDUCTIBLE.—The term ‘in-
6 surer deductible’ means—

7 “(A) for the Transition Period, the value
8 of an insurer’s direct earned premiums over the
9 calendar year immediately preceding the date of
10 enactment of this Act, multiplied by 1 percent;

11 “(B) for Program Year 1, the value of an
12 insurer’s direct earned premiums over the cal-
13 endar year immediately preceding Program
14 Year 1, multiplied by 7 percent;

15 “(C) for Program Year 2, the value of an
16 insurer’s direct earned premiums over the cal-
17 endar year immediately preceding Program
18 Year 2, multiplied by 10 percent;

19 “(D) for Program Year 3, the value of an
20 insurer’s direct earned premiums over the cal-
21 endar year immediately preceding Program
22 Year 3, multiplied by 15 percent;

23 “(E) for Program Year 4, the value of an
24 insurer’s direct earned premiums over the cal-

1 endar year immediately preceding Program
2 Year 4, multiplied by 17.5 percent;

3 “(F) for Program Year 5, the value of an
4 insurer’s direct earned premiums over the cal-
5 endar year immediately preceding Program
6 Year 5, multiplied by 20 percent;

7 “(G) for each additional Program Year—

8 “(i) with respect to property and cas-
9 ualty insurance, the value of an insurer’s
10 direct earned premiums over the calendar
11 year immediately preceding such Program
12 Year, multiplied by 20 percent; and

13 “(ii) with respect to group life insur-
14 ance, the value of an insurer’s amount at
15 risk over the calendar year immediately
16 preceding such Program Year, multiplied
17 by 0.0351 percent;

18 “(H) notwithstanding subparagraphs (A)
19 through (G), for the Transition Period or any
20 Program Year, if an insurer has not had a full
21 year of operations during the calendar year im-
22 mediately preceding such Period or Program
23 Year, such portion of the direct earned pre-
24 miums with respect to property and casualty in-
25 surance, and such portion of the amounts at

1 risk with respect to group life insurance, of the
2 insurer as the Secretary determines appro-
3 priate, subject to appropriate methodologies es-
4 tablished by the Secretary for measuring such
5 direct earned premiums and amounts at risk;

6 “(I) notwithstanding subparagraphs (A)
7 through (H) and (J), in the case of any act of
8 NBCR terrorism, for any additional Program
9 Year—

10 “(i) with respect to property and cas-
11 ualty insurance, the value of an insurer’s
12 direct earned premiums over the calendar
13 year immediately preceding such Program
14 Year, multiplied by a percentage, which—

15 “(I) for the second additional
16 Program Year, shall be 3.5 percent;
17 and

18 “(II) for each succeeding Pro-
19 gram Year thereafter, shall be 50
20 basis points greater than the percent-
21 age applicable to the preceding addi-
22 tional Program Year; and

23 “(ii) with respect to group life insur-
24 ance, the value of an insurer’s amount at
25 risk over the calendar year immediately

1 preceding such Program Year, multiplied
2 by a percentage, which—

3 “(I) for the first additional Pro-
4 gram Year, shall be 0.00614 percent;
5 and

6 “(II) for each succeeding Pro-
7 gram Year thereafter, shall be 0.088
8 basis point greater than the percent-
9 age applicable to the preceding addi-
10 tional Program Year; and

11 “(J) notwithstanding subparagraph (G)(i),
12 if aggregate industry insured losses resulting
13 from a certified act of terrorism exceed
14 \$1,000,000,000, for any insurer that sustains
15 insured losses resulting from such act of ter-
16 rorism, the value of such insurer’s direct earned
17 premiums over the calendar year immediately
18 preceding the Program Year, multiplied by a
19 percentage, which—

20 “(i) for the first additional Program
21 Year shall be 5 percent;

22 “(ii) for each additional Program
23 Year thereafter, shall be 50 basis points
24 greater than the percentage applicable to
25 the preceding additional Program Year, ex-

1 cept that if an act of terrorism occurs dur-
2 ing any additional Program Year that re-
3 sults in aggregate industry insured losses
4 exceeding \$1,000,000,000, the percentage
5 for the succeeding additional Program
6 Year shall be 5 percent and the increase
7 under this clause shall apply to additional
8 Program Years thereafter;

9 except that for purposes of determining under
10 this subparagraph whether aggregate industry
11 insured losses exceed \$1,000,000,000, the Sec-
12 retary may combine insured losses resulting
13 from two or more certified acts of terrorism oc-
14 curring during such Program Year in the same
15 geographic area (with such area determined by
16 the Secretary), in which case such insurer shall
17 be permitted to combine insured losses resulting
18 from such acts of terrorism for purposes of sat-
19 isfying its insurer deductible under this sub-
20 paragraph; and except that the insurer deduct-
21 ible under this subparagraph shall apply only
22 with respect to compensation of insured losses
23 resulting from such certified act, or combined
24 certified acts, and that for purposes of com-
25 pensation of any other insured losses occurring

1 in the same Program Year, the insurer deduct-
2 ible determined under subparagraph (G)(i) or
3 (I) shall apply.

4 “(12) NAIC.—The term ‘NAIC’ means the Na-
5 tional Association of Insurance Commissioners.

6 “(13) NBCR TERRORISM.—The term ‘NBCR
7 terrorism’ means an act of terrorism that involves
8 nuclear, biological, chemical, or radiological reac-
9 tions, releases, or contaminations, to the extent any
10 insured losses result from any such reactions, re-
11 leases, or contaminations.

12 “(14) PERSON.—The term ‘person’ means any
13 individual, business or nonprofit entity (including
14 those organized in the form of a partnership, limited
15 liability company, corporation, or association), trust
16 or estate, or a State or political subdivision of a
17 State or other governmental unit.

18 “(15) PROGRAM.—The term ‘Program’ means
19 the Terrorism Insurance Program established by
20 this title.

21 “(16) PROGRAM YEARS.—

22 “(A) TRANSITION PERIOD.—The term
23 ‘Transition Period’ means the period beginning
24 on the date of enactment of this Act and ending
25 on December 31, 2002.

1 “(B) PROGRAM YEAR 1.—The term ‘Pro-
2 gram Year 1’ means the period beginning on
3 January 1, 2003 and ending on December 31,
4 2003.

5 “(C) PROGRAM YEAR 2.—The term ‘Pro-
6 gram Year 2’ means the period beginning on
7 January 1, 2004 and ending on December 31,
8 2004.

9 “(D) PROGRAM YEAR 3.—The term ‘Pro-
10 gram Year 3’ means the period beginning on
11 January 1, 2005 and ending on December 31,
12 2005.

13 “(E) PROGRAM YEAR 4.—The term ‘Pro-
14 gram Year 4’ means the period beginning on
15 January 1, 2006 and ending on December 31,
16 2006.

17 “(F) PROGRAM YEAR 5.—The term ‘Pro-
18 gram Year 5’ means the period beginning on
19 January 1, 2007 and ending on December 31,
20 2007.

21 “(G) ADDITIONAL PROGRAM YEAR.—The
22 term ‘additional Program Year’ means any ad-
23 ditional one-year period after Program Year 5
24 during which the Program is in effect, which

1 period shall begin on January 1 and end on De-
2 cember 31 of the same calendar year.

3 “(17) PROPERTY AND CASUALTY INSURANCE.—

4 The term ‘property and casualty insurance’—

5 “(A) means commercial lines of property
6 and casualty insurance, including excess insur-
7 ance, workers’ compensation insurance, and di-
8 rectors and officers liability insurance; and

9 “(B) does not include—

10 “(i) Federal crop insurance issued or
11 reinsured under the Federal Crop Insur-
12 ance Act (7 U.S.C. 1501 et seq.), or any
13 other type of crop or livestock insurance
14 that is privately issued or reinsured;

15 “(ii) private mortgage insurance (as
16 that term is defined in section 2 of the
17 Homeowners Protection Act of 1998 (12
18 U.S.C. 4901)) or title insurance;

19 “(iii) financial guaranty insurance
20 issued by monoline financial guaranty in-
21 surance corporations;

22 “(iv) insurance for medical mal-
23 practice;

24 “(v) health or life insurance, including
25 group life insurance;

1 “(vi) flood insurance provided under
2 the National Flood Insurance Act of 1968
3 (42 U.S.C. 4001 et seq.);

4 “(vii) reinsurance or retrocessional re-
5 insurance;

6 “(viii) commercial automobile insur-
7 ance;

8 “(ix) burglary and theft insurance;

9 “(x) surety insurance; or

10 “(xi) professional liability insurance.

11 “(18) SECRETARY.—The term ‘Secretary’
12 means the Secretary of the Treasury.

13 “(19) STATE.—The term ‘State’ means any
14 State of the United States, the District of Columbia,
15 the Commonwealth of Puerto Rico, the Common-
16 wealth of the Northern Mariana Islands, American
17 Samoa, Guam, each of the United States Virgin Is-
18 lands, and any territory or possession of the United
19 States.

20 “(20) UNITED STATES.—The term ‘United
21 States’ means the several States, and includes the
22 territorial sea and the continental shelf of the
23 United States, as those terms are defined in the Vio-
24 lent Crime Control and Law Enforcement Act of
25 1994 (18 U.S.C. 2280, 2281).

1 “(21) RULE OF CONSTRUCTION FOR DATES.—
2 With respect to any reference to a date in this title,
3 such day shall be construed—

4 “(A) to begin at 12:01 a.m. on that date;
5 and

6 “(B) to end at midnight on that date.

7 **“SEC. 103. TERRORISM INSURANCE PROGRAM.**

8 “(a) ESTABLISHMENT OF PROGRAM.—

9 “(1) IN GENERAL.—There is established in the
10 Department of the Treasury the Terrorism Insur-
11 ance Program.

12 “(2) AUTHORITY OF THE SECRETARY.—Not-
13 withstanding any other provision of State or Federal
14 law, the Secretary shall administer the Program,
15 and shall pay the Federal share of compensation for
16 insured losses in accordance with subsection (e).

17 “(3) MANDATORY PARTICIPATION.—Each entity
18 that meets the definition of an insurer under this
19 title shall participate in the Program.

20 “(4) NBCR EXEMPTION FOR CERTAIN INSUR-
21 ERS.—Notwithstanding the requirements of para-
22 graph (3):

23 “(A) ELIGIBILITY.—Upon request, the
24 Secretary may provide an exemption from the
25 requirements of subparagraph (B) of subsection

1 (c)(1) in the Program to an entity that other-
2 wise meets the definition of an insurer under
3 this title if—

4 “(i) such insurer’s direct earned pre-
5 mium is less than \$50,000,000 in the cal-
6 endar year immediately preceding the cur-
7 rent additional Program Year; and

8 “(ii) the Secretary makes the deter-
9 mination set forth in subparagraph (D).

10 “(B) INSURER GROUP.—For purposes of
11 subparagraph (A)(i), the direct earned premium
12 of any insurer shall include the direct earned
13 premiums of every affiliate of that insurer.

14 “(C) INFORMATION AND CONSULTATION.—
15 Any insurer requesting an exemption pursuant
16 to this paragraph shall provide any information
17 the Secretary may require to establish its eligi-
18 bility for the exemption. In developing stand-
19 ards for evaluating eligibility for the exemption
20 under this paragraph, the Secretary shall con-
21 sult with the NAIC.

22 “(D) DETERMINATION.—In making any
23 determination regarding eligibility for exemp-
24 tion under this paragraph, the Secretary shall
25 consult with the insurance commissioner of the

1 State or other appropriate State regulatory au-
2 thority where the insurer is domiciled and de-
3 termine whether the insurer has demonstrated
4 that it would become insolvent if it were re-
5 quired, in the event of an act of NBCR ter-
6 rorism, to satisfy—

7 “(i) its deductible and maximum ap-
8 plicable share above the deductible pursu-
9 ant to sections 102(11)(I) and
10 103(e)(1)(B), respectively, for such act of
11 NBCR terrorism resulting in aggregate in-
12 dustry insured losses above the trigger es-
13 tablished in section 103(e)(1)(C); or

14 “(ii) its maximum payment obliga-
15 tions for insured losses for such act of
16 NBCR terrorism resulting in aggregate in-
17 dustry insured losses below the trigger es-
18 tablished in section 103(e)(1)(C).

19 “(E) WORKERS’ COMPENSATION AND
20 OTHER COMPULSORY INSURANCE LAW.—In
21 granting an exemption under this paragraph,
22 the Secretary shall not approve any request for
23 exemption with regard to State workers’ com-
24 pensation insurance or other compulsory insur-
25 ance law requiring coverage of the risks de-

1 scribed in subparagraph (B) of subsection
2 (c)(1).

3 “(F) EXEMPTION PERIOD.—

4 “(i) IN GENERAL.—Any exemption
5 granted to an insurer by the Secretary
6 under this paragraph shall have a duration
7 of not longer than 2 years.

8 “(ii) EXTENSION.—Notwithstanding
9 clause (i), the Secretary may, upon appli-
10 cation by an insurer granted an exemption
11 under this paragraph, extend such exemp-
12 tion for additional periods of not longer
13 than 2 years.

14 “(b) CONDITIONS FOR FEDERAL PAYMENTS.—No
15 payment may be made by the Secretary under this section
16 with respect to an insured loss that is covered by an in-
17 surer, unless—

18 “(1) the person that suffers the insured loss, or
19 a person acting on behalf of that person, files a
20 claim with the insurer;

21 “(2) the insurer provides clear and conspicuous
22 disclosure to the policyholder of the premium
23 charged for insured losses covered by the Program
24 (including the additional premium, if any, charged
25 for the coverage for insured losses resulting from

1 acts of NBCR terrorism as made available pursuant
2 to subsection (c)(1)(B)) and the Federal share of
3 compensation for insured losses under the Pro-
4 gram—

5 “(A) in the case of any policy that is
6 issued before the date of enactment of this Act,
7 not later than 90 days after that date of enact-
8 ment;

9 “(B) in the case of any policy that is
10 issued within 90 days of the date of enactment
11 of this Act, at the time of offer, purchase, and
12 renewal of the policy; and

13 “(C) in the case of any policy that is
14 issued more than 90 days after the date of en-
15 actment of this Act, on a separate line item in
16 the policy, at the time of offer, purchase, and
17 renewal of the policy;

18 “(3) the insurer processes the claim for the in-
19 sured loss in accordance with appropriate business
20 practices, and any reasonable procedures that the
21 Secretary may prescribe; and

22 “(4) the insurer submits to the Secretary, in ac-
23 cordance with such reasonable procedures as the
24 Secretary may establish—

1 “(A) a claim for payment of the Federal
2 share of compensation for insured losses under
3 the Program;

4 “(B) written certification—

5 “(i) of the underlying claim; and

6 “(ii) of all payments made for insured
7 losses; and

8 “(C) certification of its compliance with
9 the provisions of this subsection.

10 “(c) MANDATORY AVAILABILITY.—

11 “(1) AVAILABILITY OF COVERAGE FOR INSURED
12 LOSSES.—Subject to paragraph (3), during each
13 Program Year, each entity that meets the definition
14 of an insurer under section 102 shall make avail-
15 able—

16 “(A) in all of its insurance policies for cov-
17 ered lines, coverage for insured losses that does
18 not differ materially from the terms, amounts,
19 and other coverage limitations applicable to
20 losses arising from events other than acts of
21 terrorism; and

22 “(B) in insurance policies for covered lines
23 for which the coverage described in subpara-
24 graph (A) is provided, exceptions to the pollu-
25 tion and nuclear hazard exclusions of such poli-

1 cies that render such exclusions inapplicable
2 only as to insured losses arising from acts of
3 NBCR terrorism.

4 “(2) ALLOWABLE EXCLUSIONS IN OTHER COV-
5 ERAGE.—Subject to paragraph (3) and notwith-
6 standing any other provision of Federal or State
7 law, including any State workers’ compensation and
8 other compulsory insurance law, if a person elects
9 not to purchase an insurance policy with the cov-
10 erage described in paragraph (1)—

11 “(A) an insurer may exclude coverage for
12 all losses from acts of terrorism including acts
13 of NBCR terrorism, except for State workers’
14 compensation and other compulsory insurance
15 law requiring coverage of the risks described in
16 subsection (c)(1) (unless permitted by State
17 law); or

18 “(B) an insurer may offer other options
19 for coverage that differ materially from the
20 terms, amounts, and other coverage limitations
21 applicable to losses arising from events other
22 than acts of terrorism;
23 except that nothing in this paragraph shall affect
24 paragraph (4).

1 “(3) APPLICABILITY FOR NBCR TERRORISM.—
2 Notwithstanding any other provision of this Act,
3 paragraphs (1)(B) and (2) shall apply, beginning
4 upon January 1, 2009, with respect to coverage for
5 acts of NBCR terrorism, that is purchased or re-
6 newed on or after such date.

7 “(4) AVAILABILITY OF LIFE INSURANCE WITH-
8 OUT REGARD TO LAWFUL FOREIGN TRAVEL.—Dur-
9 ing each Program Year, each entity that meets the
10 definition of an insurer under section 102 shall
11 make available, in all of its life insurance policies
12 issued after the date of the enactment of the Ter-
13 rorism Risk Insurance Revision and Extension Act
14 of 2007 under which the insured person is a citizen
15 of the United States or an alien lawfully admitted
16 for permanent residence in the United States, cov-
17 erage that neither considers past, nor precludes fu-
18 ture, lawful foreign travel by the person insured, and
19 shall not decline such coverage based on past or fu-
20 ture, lawful foreign travel by the person insured or
21 charge a premium for such coverage that is excessive
22 and not based on a good faith actuarial analysis, ex-
23 cept that an insurer may decline or, upon inception
24 or renewal of a policy, limit the amount of coverage
25 provided under any life insurance policy based on

1 plans to engage in future lawful foreign travel to
2 occur within 12 months of such inception or renewal
3 of the policy but only if, at time of application—

4 “(A) such declination is based on, or such
5 limitation applies only with respect to, travel to
6 a foreign destination—

7 “(i) for which the Director of the Cen-
8 ters for Disease Control and Prevention of
9 the Department of Health and Human
10 Services has issued a highest level alert or
11 warning, including a recommendation
12 against non-essential travel, due to a seri-
13 ous health-related condition;

14 “(ii) in which there is an ongoing
15 military conflict involving the armed forces
16 of a sovereign nation other than the nation
17 to which the insured person is traveling; or

18 “(iii)(I) that the insurer has specifi-
19 cally designated in the terms of the life in-
20 surance policy at the inception of the pol-
21 icy or at renewal, as applicable; and

22 “(II) with respect to which the insurer
23 has made a good-faith determination
24 that—

1 “(aa) a serious unlawful situation
2 exists which is ongoing; and

3 “(bb) the credibility of informa-
4 tion by which the insurer can verify
5 the death of the insured person is
6 compromised; and

7 “(B) in the case of any limitation of cov-
8 erage, such limitation is specifically stated in
9 the terms of the life insurance policy at the in-
10 ception of the policy or at renewal, as applica-
11 ble.

12 “(d) STATE RESIDUAL MARKET INSURANCE ENTI-
13 TIES.—

14 “(1) IN GENERAL.—The Secretary shall issue
15 regulations, as soon as practicable after the date of
16 enactment of this Act, that apply the provisions of
17 this title to State residual market insurance entities
18 and State workers’ compensation funds.

19 “(2) TREATMENT OF CERTAIN ENTITIES.—For
20 purposes of the regulations issued pursuant to para-
21 graph (1)—

22 “(A) a State residual market insurance en-
23 tity that does not share its profits and losses
24 with private sector insurers shall be treated as
25 a separate insurer; and

1 “(B) a State residual market insurance en-
2 tity that shares its profits and losses with pri-
3 vate sector insurers shall not be treated as a
4 separate insurer, and shall report to each pri-
5 vate sector insurance participant its share of
6 the insured losses of the entity, which shall be
7 included in each private sector insurer’s insured
8 losses.

9 “(3) TREATMENT OF PARTICIPATION IN CER-
10 TAIN ENTITIES.—Any insurer that participates in
11 sharing profits and losses of a State residual market
12 insurance entity shall include in its calculations of
13 premiums any premiums distributed to the insurer
14 by the State residual market insurance entity.

15 “(e) INSURED LOSS SHARED COMPENSATION.—

16 “(1) FEDERAL SHARE.—

17 “(A) CONVENTIONAL TERRORISM.—Except
18 as provided in subparagraph (B), the Federal
19 share of compensation under the Program to be
20 paid by the Secretary for insured losses of an
21 insurer during any additional Program Year
22 shall be equal to the sum of—

23 “(i) 85 percent of that portion of the
24 amount of such insured losses that—

1 “(I) exceeds the applicable in-
2 surer deductible required to be paid
3 during such Program Year; and

4 “(II) based upon pro rata deter-
5 minations pursuant to paragraph
6 (2)(B), does not result in aggregate
7 industry insured losses during such
8 Program Year exceeding
9 \$100,000,000,000; and

10 “(ii) 100 percent of the insured losses
11 of the insurer that, based upon pro rata
12 determinations pursuant to paragraph
13 (2)(B), result in aggregate industry in-
14 sured losses during such Program Year ex-
15 ceeding \$100,000,000,000, up to the limit
16 under paragraph (2)(A).

17 “(B) NBCR TERRORISM.—

18 “(i) AMOUNT OF COMPENSATION.—
19 The Federal share of compensation under
20 the Program to be paid by the Secretary
21 for insured losses of an insurer resulting
22 from NBCR terrorism during any addi-
23 tional Program Year shall be equal to the
24 sum of—

1 “(I) the amount of qualified
2 NBCR losses (as such term is defined
3 in clause (ii)) of the insurer, multi-
4 plied by a percentage based on the ag-
5 gregate industry qualified NBCR
6 losses for the Program Year, which
7 percentage shall be—

8 “(aa) 85 percent of such ag-
9 gregate industry qualified NBCR
10 losses of less than
11 \$10,000,000,000;

12 “(bb) 87.5 percent of such
13 aggregate industry qualified
14 NBCR losses between
15 \$10,000,000,000 and
16 \$20,000,000,000;

17 “(cc) 90 percent of such ag-
18 gregate industry qualified NBCR
19 losses between \$20,000,000,000
20 and \$40,000,000,000;

21 “(dd) 92.5 percent of such
22 aggregate industry qualified
23 NBCR losses of between
24 \$40,000,000,000 and
25 \$60,000,000,000; and

1 “(ee) 95 percent of such ag-
2 gregate industry qualified NBCR
3 losses of more than
4 \$60,000,000,000;

5 and shall be prorated per insurer
6 based on each insurer’s percentage of
7 the aggregate industry qualified
8 NBCR losses for such additional Pro-
9 gram Year; and

10 “(II) 100 percent of the insured
11 losses of the insurer resulting from
12 NBCR terrorism that, based upon pro
13 rata determinations pursuant to para-
14 graph (2)(B), result in aggregate in-
15 dustry insured losses during such Pro-
16 gram Year exceeding
17 \$100,000,000,000, up to the limit
18 under paragraph (2)(A).

19 “(ii) QUALIFIED NBCR LOSSES.—For
20 purposes of this subparagraph, the term
21 ‘qualified NBCR losses’ means, with re-
22 spect to insured losses of an insurer result-
23 ing from NBCR terrorism during an addi-
24 tional Program Year, that portion of the
25 amount of such insured losses that—

1 “(I) exceeds the applicable in-
2 surer deductible required to be paid
3 during such Program Year; and

4 “(II) based upon pro rata deter-
5 minations pursuant to paragraph
6 (2)(B), does not result in aggregate
7 industry insured losses during such
8 Program Year exceeding
9 \$100,000,000,000.

10 “(C) PROGRAM TRIGGER.—In the case of a
11 certified act of terrorism occurring after March
12 31, 2006, no compensation shall be paid by the
13 Secretary under subsection (a), unless the ag-
14 gregate industry insured losses resulting from
15 such certified act of terrorism exceed
16 \$50,000,000, except that if a certified act of
17 terrorism occurs for which resulting aggregate
18 industry insured losses exceed \$1,000,000,000,
19 the applicable amount for any subsequent cer-
20 tified act of terrorism shall be the amount spec-
21 ified in section 102(1)(B)(ii).

22 “(D) LIMITATION ON COMPENSATION FOR
23 GROUP LIFE INSURANCE.—Notwithstanding any
24 other provision of this Act, the Federal share of
25 compensation under the Program paid by the

1 Secretary for insured losses of an insurer re-
2 sulting from coverage of any single certificate
3 holder under any group life insurance coverages
4 of the insurer may not during any additional
5 Program Year exceed \$1,000,000.

6 “(E) PROHIBITION ON DUPLICATIVE COM-
7 PENSATION.—The Federal share of compensa-
8 tion for insured losses under the Program shall
9 be reduced by the amount of compensation pro-
10 vided by the Federal Government to any person
11 under any other Federal program for those in-
12 sured losses.

13 “(2) CAP ON ANNUAL LIABILITY.—

14 “(A) IN GENERAL.—Notwithstanding para-
15 graph (1) or any other provision of Federal or
16 State law, including any State workers’ com-
17 pensation or other compulsory insurance law, if
18 the aggregate amount of the Federal share of
19 compensation to be paid to all insurers pursu-
20 ant to paragraph (1) exceeds
21 \$100,000,000,000, during any additional Pro-
22 gram Year (until such time as the Congress
23 may act otherwise with respect to such
24 losses)—

1 “(i) the Secretary shall not make any
2 payment under this title for any portion of
3 the amount of the aggregate insured losses
4 during such Program Year for which the
5 Federal share exceeds \$100,000,000,000;
6 and

7 “(ii) no insurer that has met its in-
8 surer deductible shall be liable for the pay-
9 ment of any portion of the aggregate in-
10 sured losses during such Program Year
11 that exceeds \$100,000,000,000.

12 “(B) INSURER SHARE.—For purposes of
13 subparagraph (A), the Secretary shall deter-
14 mine the pro rata share of insured losses to be
15 paid by each insurer that incurs insured losses
16 under the Program.

17 “(C) CLAIMS ALLOCATIONS.—The Sec-
18 retary shall, by regulation, provide for insurers
19 to allocate claims payments for insured losses
20 under applicable insurance policies in any case
21 described in subparagraph (A). Such regula-
22 tions shall include provisions for payment, for
23 the purpose of addressing emergency needs of
24 applicable individuals affected by an act of ter-

1 rorism, of a portion of claims for insured losses
2 promptly upon filing of such claims.

3 “(3) LIMITATION ON INSURER FINANCIAL RE-
4 SPONSIBILITY.—

5 “(A) LIMITATION.—Notwithstanding any
6 other provision of Federal or State law, includ-
7 ing any State workers’ compensation or other
8 compulsory insurance law, an insurer’s financial
9 responsibility for insured losses from acts of
10 terrorism shall be limited to its applicable in-
11 surer deductible and its applicable share of in-
12 sured losses that exceed its applicable insurer
13 deductible, subject to the requirements of para-
14 graph (2).

15 “(B) FEDERAL REIMBURSEMENT.—Not-
16 withstanding any other provision of Federal or
17 State law, the Secretary shall—

18 “(i) reimburse insurers for any pay-
19 ment of excess insured losses made prior to
20 publication of any notification pursuant to
21 paragraph (4)(A);

22 “(ii) reimburse insurers for any pay-
23 ment of excess insured losses occurring on
24 or after the date of any notification pursu-

1 ant to paragraph (4)(A), but only to the
2 extent that—

3 “(I) such payment is ordered by
4 a court pursuant to subparagraph (C)
5 of this paragraph or is directed by
6 State law, notwithstanding this para-
7 graph, or by Federal law;

8 “(II) such payment is limited to
9 compensating insurers for their pay-
10 ment of excess insured losses and does
11 not include punitive damages, or liti-
12 gation or other costs; and

13 “(III) the insurer has made a
14 good-faith effort to defend against any
15 claims for such payment; and

16 “(iii) have the right to intervene in
17 any legal proceedings relating to such
18 claims specified in clause (ii)(III).

19 “(C) FEDERAL COURT JURISDICTION.—

20 “(i) CONDITIONS.—All claims relating
21 to or arising out of an insurer’s financial
22 responsibility for insured losses from acts
23 of terrorism under this paragraph shall be
24 within the original and exclusive jurisdic-
25 tion of the district courts of the United

1 States, in accordance with the procedures
2 established in subparagraph (D), if the
3 Secretary certifies that the following condi-
4 tions have been met, or that there is a rea-
5 sonable likelihood that the following condi-
6 tions may be met:

7 “(I) The aggregate amount of
8 the Federal share of compensation to
9 be paid to all insurers pursuant to
10 paragraph (1) exceeds
11 \$100,000,000,000, pursuant to para-
12 graph (2); and

13 “(II) the insurer has paid its ap-
14 plicable insurer deductible and its pro
15 rata share of insured losses deter-
16 mined pursuant to paragraph (2)(B).

17 “(ii) REMOVAL OF STATE COURT AC-
18 TIONS.—If the Secretary certifies that con-
19 ditions set forth in subclauses (I) and (II)
20 of clause (i) have been met, all pending
21 State court actions that relate to or arise
22 out of an insurer’s financial responsibility
23 for insured losses from acts of terrorism
24 under this paragraph shall be removed to

1 a district court of the United States in ac-
2 cordance with subparagraph (D).

3 “(D) VENUE.—For each certification made
4 by the Secretary pursuant to subparagraph
5 (C)(i), not later than 90 days after the Sec-
6 retary’s determination the Judicial Panel on
7 Multidistrict Litigation shall designate one dis-
8 trict court or, if necessary, multiple district
9 courts of the United States that shall have
10 original and exclusive jurisdiction over all ac-
11 tions for any claim relating to or arising out of
12 an insurer’s financial responsibility for insured
13 losses from acts of terrorism under this para-
14 graph.

15 “(4) NOTICES REGARDING LOSSES AND AN-
16 NUAL LIABILITY CAP.—

17 “(A) APPROACHING CAP.—If the Secretary
18 determines estimated or actual aggregate Fed-
19 eral compensation to be paid pursuant to para-
20 graph (1) equals or exceeds \$80,000,000,000
21 during any Program Year, the Secretary shall
22 promptly provide notification in accordance with
23 subparagraph (D)—

24 “(i) of such estimated or actual aggre-
25 gate Federal compensation to be paid;

1 “(ii) of the likelihood that such aggregate
2 Federal compensation to be paid for
3 such Program Year will equal or exceed
4 \$100,000,000,000; and

5 “(iii) that, pursuant to paragraph
6 (2)(A)(ii), insurers are not required to
7 make payments of excess insured losses.

8 “(B) EVENT LIKELY TO CAUSE LOSSES TO
9 EXCEED CAP.—If any act of terrorism occurs
10 that the Secretary determines is likely to cause
11 estimated or actual aggregate Federal com-
12 pensation to be paid pursuant to paragraph (1)
13 to exceed \$100,000,000,000 during any Pro-
14 gram Year, the Secretary shall, not later than
15 10 days after such act, provide notification in
16 accordance with subparagraph (D)—

17 “(i) of such estimated or actual aggregate
18 Federal compensation to be paid; and

19 “(ii) that, pursuant to paragraph
20 (2)(A)(ii), insurers are not required to
21 make payments for excess insured losses.

22 “(C) EXCEEDING CAP.—If the Secretary
23 determines estimated or actual aggregate Fed-
24 eral compensation to be paid pursuant to para-

1 graph (1) equals or exceeds \$100,000,000,000
2 during any Program Year—

3 “(i) the Secretary shall promptly pro-
4 vide notification in accordance with sub-
5 paragraph (D)—

6 “(I) of such estimated or actual
7 aggregate Federal compensation to be
8 paid; and

9 “(II) that, pursuant to paragraph
10 (2)(A)(ii), insurers are not required to
11 make payments for excess insured
12 losses unless the Congress provides
13 for payments for excess insured losses
14 pursuant to clause (ii) of this sub-
15 paragraph; and

16 “(ii) the Congress shall determine the
17 procedures for and the source of any pay-
18 ments for such excess insured losses.

19 “(D) PARTIES NOTIFIED.—Notification is
20 provided in accordance with this subparagraph
21 only if notification is provided—

22 “(i) to the Congress, in writing; and

23 “(ii) to insurers, by causing such no-
24 tice to be published in the Federal Reg-
25 ister.

1 “(E) DETERMINATIONS.—The Secretary
2 shall make determinations regarding estimated
3 and actual aggregate Federal compensation to
4 be paid promptly after any act of terrorism as
5 may be necessary to comply with this para-
6 graph.

7 “(F) MANDATORY DISCLOSURE FOR IN-
8 SURANCE CONTRACTS.—All policies for property
9 and casualty insurance and group life insurance
10 shall be deemed to contain a provision to the ef-
11 fect that no insurer that has met its applicable
12 insurer deductible and its applicable share of
13 insured losses that exceed its applicable insurer
14 deductible but are not compensated pursuant to
15 paragraph (1), shall be obligated to pay for any
16 portion of excess insured loss. Notwithstanding
17 the preceding sentence, insurers shall include a
18 disclosure in their policies detailing the max-
19 imum level of Government assistance and the
20 applicable insurer share.

21 “(5) FINAL NETTING.—The Secretary shall
22 have sole discretion to determine the time at which
23 claims relating to any insured loss or act of ter-
24 rorism shall become final.

1 “(6) DETERMINATIONS FINAL.—Any deter-
2 mination of the Secretary under this subsection shall
3 be final, unless expressly provided, and shall not be
4 subject to judicial review.

5 “(7) INSURANCE MARKETPLACE AGGREGATE
6 RETENTION AMOUNT.—For purposes of paragraph
7 (8), the insurance marketplace aggregate retention
8 amount shall be—

9 “(A) for the period beginning on the first
10 day of the Transition Period and ending on the
11 last day of Program Year 1, the lesser of—

12 “(i) \$10,000,000,000; and

13 “(ii) the aggregate amount, for all in-
14 surers, of insured losses during such pe-
15 riod;

16 “(B) for Program Year 2, the lesser of—

17 “(i) \$12,500,000,000; and

18 “(ii) the aggregate amount, for all in-
19 surers, of insured losses during such Pro-
20 gram Year;

21 “(C) for Program Year 3, the lesser of—

22 “(i) \$15,000,000,000; and

23 “(ii) the aggregate amount, for all in-
24 surers, of insured losses during such Pro-
25 gram Year;

1 “(D) for Program Year 4, the lesser of—

2 “(i) \$25,000,000,000; and

3 “(ii) the aggregate amount, for all in-
4 surers, of insured losses during such Pro-
5 gram Year;

6 “(E) for Program Year 5, the lesser of—

7 “(i) \$27,500,000,000; and

8 “(ii) the aggregate amount, for all in-
9 surers, of insured losses during such Pro-
10 gram Year; and

11 “(F) for each additional Program Year—

12 “(i) for property and casualty insur-
13 ance, the lesser of—

14 “(I) \$27,500,000,000; and

15 “(II) the aggregate amount, for
16 all such insurance, of insured losses
17 during such Program Year; and

18 “(ii) for group life insurance, the less-
19 er of—

20 “(I) \$5,000,000,000; and

21 “(II) the aggregate amount, for
22 all such insurance, of insured losses
23 during such Program Year.

24 “(8) RECOUPMENT OF FEDERAL SHARE.—

1 “(A) MANDATORY RECOUPMENT
2 AMOUNT.—For purposes of this paragraph, the
3 mandatory recoupment amount for each of the
4 Program Years referred to in subparagraphs
5 (A) through (F) of paragraph (7) shall be the
6 difference between—

7 “(i) the applicable insurance market-
8 place aggregate retention amount under
9 paragraph (7) for such Program Year; and

10 “(ii) the aggregate amount, for all ap-
11 plicable insurers (pursuant to subpara-
12 graph (E)), of insured losses during such
13 Program Year that are not compensated
14 by the Federal Government because such
15 losses—

16 “(I) are within the insurer de-
17 ductible for the insurer subject to the
18 losses; or

19 “(II) are within the portion of
20 losses of the insurer that exceed the
21 insurer deductible, but are not com-
22 pensated pursuant to paragraph (1).

23 “(B) NO MANDATORY RECOUPMENT IF UN-
24 COMPENSATED LOSSES EXCEED APPLICABLE
25 INSURANCE MARKETPLACE RETENTION.—Not-

1 withstanding subparagraph (A), if the aggregate
2 amount of uncompensated insured losses
3 referred to in clause (ii) of such subparagraph
4 for any Program Year referred to in any of sub-
5 paragraphs (A) through (F) of paragraph (7) is
6 greater than the applicable insurance market-
7 place aggregate retention amount under para-
8 graph (7) for such Program Year, the manda-
9 tory recoupment amount shall be \$0.

10 “(C) MANDATORY ESTABLISHMENT OF
11 SURCHARGES TO RECOUP MANDATORY
12 RECOUPMENT AMOUNT.—The Secretary shall
13 collect, for repayment of the Federal financial
14 assistance provided in connection with all acts
15 of terrorism (or acts of war, in the case of
16 workers’ compensation) occurring during any of
17 the Program Years referred to in any of sub-
18 paragraphs (A) through (F) of paragraph (7),
19 terrorism loss risk-spreading premiums in an
20 amount equal to any mandatory recoupment
21 amount for such Program Year.

22 “(D) DISCRETIONARY RECOUPMENT OF
23 REMAINDER OF FINANCIAL ASSISTANCE.—To
24 the extent that the amount of Federal financial

1 assistance provided exceeds any mandatory
2 recoupment amount, the Secretary may—

3 “(i) recoup, through terrorism loss
4 risk-spreading premiums, such additional
5 amounts; or

6 “(ii) submit a report to the Congress
7 identifying such amounts that the Sec-
8 retary believes cannot be recouped, based
9 on—

10 “(I) the ultimate costs to tax-
11 payers of no additional recoupment;

12 “(II) the economic conditions in
13 the commercial marketplace, including
14 the capitalization, profitability, and
15 investment returns of the insurance
16 industry and the current cycle of the
17 insurance markets;

18 “(III) the affordability of com-
19 mercial insurance for small- and me-
20 dium-sized businesses; and

21 “(IV) such other factors as the
22 Secretary considers appropriate.

23 “(E) SEPARATE RECOUPMENT.—“The Sec-
24 retary shall provide that—

1 “(i) any recoupment under this para-
2 graph of amounts paid for Federal finan-
3 cial assistance for insured losses for prop-
4 erty and casualty insurance shall be ap-
5 plied to property and casualty insurance
6 policies; and

7 “(ii) any recoupment under this para-
8 graph of amounts paid for Federal finan-
9 cial assistance for insured losses for group
10 life insurance shall be applied to group life
11 insurance policies.

12 “(9) POLICY SURCHARGE FOR TERRORISM LOSS
13 RISK-SPREADING PREMIUMS.—

14 “(A) POLICYHOLDER PREMIUM.—Subject
15 to paragraph (8)(E), any amount established by
16 the Secretary as a terrorism loss risk-spreading
17 premium shall—

18 “(i) be imposed as a policyholder pre-
19 mium surcharge on property and casualty
20 insurance policies and group life insurance
21 policies in force after the date of such es-
22 tablishment;

23 “(ii) begin with such period of cov-
24 erage during the year as the Secretary de-
25 termines appropriate; and

1 “(iii) be based on—

2 “(I) a percentage of the premium
3 amount charged for property and cas-
4 ualty insurance coverage under the
5 policy; and

6 “(II) a percentage of the amount
7 at risk for group life insurance cov-
8 erage under the policy.

9 “(B) COLLECTION.—The Secretary shall
10 provide for insurers to collect terrorism loss
11 risk-spreading premiums and remit such
12 amounts collected to the Secretary.

13 “(C) PERCENTAGE LIMITATION.—A ter-
14 rorism loss risk-spreading premium may not ex-
15 ceed, on an annual basis—

16 “(i) with respect to property and cas-
17 ualty insurance, the amount equal to 3
18 percent of the premium charged under the
19 policy; and

20 “(ii) with respect to group life insur-
21 ance, the amount equal to 0.0053 percent
22 of the amount at risk under the policy.

23 “(D) ADJUSTMENT FOR URBAN AND
24 SMALLER COMMERCIAL AND RURAL AREAS AND
25 DIFFERENT LINES OF INSURANCE.—

1 “(i) ADJUSTMENTS.—In determining
2 the method and manner of imposing ter-
3 rorism loss risk-spreading premiums, in-
4 cluding the amount of such premiums, the
5 Secretary shall take into consideration—

6 “(I) the economic impact on com-
7 mercial centers of urban areas, includ-
8 ing the effect on commercial rents and
9 commercial insurance premiums, par-
10 ticularly rents and premiums charged
11 to small businesses, and the avail-
12 ability of lease space and commercial
13 insurance within urban areas;

14 “(II) the risk factors related to
15 rural areas and smaller commercial
16 centers, including the potential expo-
17 sure to loss and the likely magnitude
18 of such loss, as well as any resulting
19 cross-subsidization that might result;
20 and

21 “(III) the various exposures to
22 terrorism risk for different lines of in-
23 surance.

24 “(ii) RECOUPMENT OF ADJUST-
25 MENTS.—Any mandatory recoupment

1 amounts not collected by the Secretary be-
2 cause of adjustments under this subpara-
3 graph shall be recouped through additional
4 terrorism loss risk-spreading premiums.

5 “(E) TIMING OF PREMIUMS.—The Sec-
6 retary may adjust the timing of terrorism loss
7 risk-spreading premiums to provide for equiva-
8 lent application of the provisions of this title to
9 policies that are not based on a calendar year,
10 or to apply such provisions on a daily, monthly,
11 or quarterly basis, as appropriate.

12 “(f) CAPTIVE INSURERS AND OTHER SELF-INSUR-
13 ANCE ARRANGEMENTS.—The Secretary may, in consulta-
14 tion with the NAIC or the appropriate State regulatory
15 authority, apply the provisions of this title, as appropriate,
16 to other classes or types of captive insurers and other self-
17 insurance arrangements by municipalities and other enti-
18 ties (such as workers’ compensation self-insurance pro-
19 grams and State workers’ compensation reinsurance
20 pools), but only if such application is determined before
21 the occurrence of an act of terrorism in which such an
22 entity incurs an insured loss and all of the provisions of
23 this title are applied comparably to such entities.

24 “(g) REINSURANCE TO COVER EXPOSURE.—

1 “(1) OBTAINING COVERAGE.—This title may
2 not be construed to limit or prevent insurers from
3 obtaining reinsurance coverage for insurer
4 deductibles or insured losses retained by insurers
5 pursuant to this section, nor shall the obtaining of
6 such coverage affect the calculation of such
7 deductibles or retentions.

8 “(2) LIMITATION ON FINANCIAL ASSISTANCE.—
9 The amount of financial assistance provided pursu-
10 ant to this section shall not be reduced by reinsur-
11 ance paid or payable to an insurer from other
12 sources, except that recoveries from such other
13 sources, taken together with financial assistance for
14 the Transition Period or a Program Year provided
15 pursuant to this section, may not exceed the aggre-
16 gate amount of the insurer’s insured losses for such
17 period. If such recoveries and financial assistance for
18 the Transition Period or a Program Year exceed
19 such aggregate amount of insured losses for that pe-
20 riod and there is no agreement between the insurer
21 and any reinsurer to the contrary, an amount in ex-
22 cess of such aggregate insured losses shall be re-
23 turned to the Secretary.”;

24 (2) in section 104(a)—

1 (A) in paragraph (1), by striking “and” at
2 the end;

3 (B) in paragraph (2), by striking the pe-
4 riod and inserting “; and”; and

5 (C) by adding at the end the following new
6 paragraph:

7 “(3) during the 90-day period beginning upon
8 the certification of any act of terrorism, to issue
9 such regulations as the Secretary considers nec-
10 essary to carry out this Act without regard to the
11 notice and comment provisions of section 553 of title
12 5, United States Code.”;

13 (3) in section 104, by adding at the end the fol-
14 lowing new subsection:

15 “(h) ANNUAL ADJUSTMENT.—

16 “(1) IN GENERAL.—Notwithstanding any other
17 provision of this title, the Secretary shall adjust, for
18 the second additional Program Year and for each
19 additional Program Year thereafter, based upon the
20 percentage change in an appropriate index during
21 the 12-month period preceding such Program Year,
22 each of the following amounts (as such amount may
23 have been previously adjusted):

24 “(A) The dollar amount in section
25 102(1)(B)(ii) (relating to act of terrorism).

1 “(B) The dollar amount in section
2 102(11)(J) (relating to aggregate industry in-
3 sured losses in a previously impacted area).

4 “(C) The dollar amounts in subparagraphs
5 (A) and (B) of section 103(e)(1) (relating to
6 limitation on Federal share).

7 “(D) The dollar amounts in section
8 103(e)(1)(C) (relating to Program trigger).

9 “(E) The dollar amount in section
10 103(e)(1)(D) (relating to limitation on group
11 life insurance compensation).

12 “(F) The dollar amounts in section
13 103(e)(2) (relating to cap on annual liability).

14 “(G) The dollar amounts in section
15 103(e)(3)(C) (relating to limitation on insurer
16 financial liability).

17 “(H) The dollar amounts in section
18 103(e)(4) (relating to notices regarding losses
19 and annual liability cap).

20 “(I) The dollar amounts in section
21 103(e)(7) (relating to insurance marketplace
22 aggregate retention amount).

23 “(J) The dollar amounts in section
24 109(b)(1)(C) (relating to membership of Com-
25 mission on Terrorism Insurance Risk).

1 “(2) PUBLICATION.—The Secretary shall make
2 the dollar amounts for each additional Program
3 Year, as adjusted pursuant to this subsection, pub-
4 licly available in a timely manner.”;

5 (4) in section 106(a)(2)—

6 (A) in subparagraph (B), by striking
7 “and” at the end;

8 (B) by redesignating subparagraph (C) as
9 subparagraph (F); and

10 (C) by inserting after subparagraph (B)
11 the following new subparagraph:

12 “(C) during the period beginning on the
13 date of the enactment of the Terrorism Risk In-
14 surance Revision and Extension Act of 2007
15 and ending on December 31, 2008, rates and
16 forms for property and casualty insurance, and
17 group life insurance, required by this title and
18 providing coverage except for NBCR terrorism
19 that are filed with any State shall not be sub-
20 ject to prior approval or a waiting period under
21 any law of a State that would otherwise be ap-
22 plicable, except that nothing in this title affects
23 the ability of any State to invalidate a rate as
24 excessive, inadequate, or unfairly discrimina-
25 tory, and, with respect to forms, where a State

1 has prior approval authority, it shall apply to
2 allow subsequent review of such forms;

3 “(D) during the period beginning on the
4 date of the enactment of the Terrorism Risk In-
5 surance Revision and Extension Act of 2007,
6 and ending on December 31, 2009, forms for
7 property and casualty insurance, and group life
8 insurance, covered by this title and providing
9 coverage for NBCR terrorism that are filed
10 with any State, to the extent of the addition of
11 such coverage for NBCR terrorism and where
12 such coverage was not previously required, shall
13 not be subject to prior approval or waiting pe-
14 riod under any law of a State that would other-
15 wise be applicable; and

16 “(E) during the period beginning on the
17 date of the enactment of the Terrorism Risk In-
18 surance Revision and Extension Act of 2007,
19 and ending on December 31, 2010, rates for
20 property and casualty insurance, and group life
21 insurance, covered by this title and providing
22 coverage for NBCR terrorism that are filed
23 with any State, to the extent of the addition of
24 such coverage for NBCR terrorism and where
25 such coverage was not previously required, shall

1 not be subject to prior approval or waiting pe-
2 riod under any law of a State that would other-
3 wise be applicable, except that nothing in this
4 title affects the ability of any State to invalidate
5 a rate as inadequate or unfairly discriminatory;
6 and”;

7 (5) in section 106, by adding at the end the fol-
8 lowing new subsection:

9 “(c) **RULE OF CONSTRUCTION REGARDING INSURER**
10 **COORDINATION.**—Nothing in this Act shall be construed
11 to prohibit, restrict, or otherwise limit an insurer from en-
12 tering into an arrangement with another insurer to make
13 available coverage for any portion of insured losses to ful-
14 fill the requirements of section 103(e). The Secretary shall
15 develop, in consultation with the NAIC, minimum finan-
16 cial solvency standards and other standards the Secretary
17 determines appropriate with respect to such arrange-
18 ments. Nothing in this subsection shall be construed to
19 establish any legal partnership.”; and

20 (6) in section 108(c)(1), by striking “paragraph
21 (4), (5), (6), (7), or (8)” and inserting “paragraph
22 (5), (6), (7), (8), or (9)”.

23 (b) **REGULATIONS ON CLAIMS ALLOCATIONS.**—The
24 Secretary of the Treasury shall issue the regulations re-
25 ferred to in subparagraph (C) of section 103(e)(2) of the

1 Terrorism Risk Insurance Act of 2002, as amended by
2 subsection (a)(1) of this section, and to carry out subpara-
3 graph (B) of such section 103(e)(2), not later than the
4 expiration of the 120-day period beginning upon the date
5 of the enactment of this Act.

6 (c) REGULATIONS ON NBCR EXEMPTIONS.—The
7 Secretary of the Treasury shall issue the regulations to
8 carry out paragraph (4) of section 103(a) of the Terrorism
9 Risk Insurance Act of 2002, as amended by subsection
10 (a)(1) of this section, not later than the expiration of the
11 180-day period beginning upon the date of the enactment
12 of this Act.

13 **SEC. 4. TERRORISM BUY-DOWN FUND.**

14 The Terrorism Risk Insurance Act of 2002 (15
15 U.S.C. 6701 note) is amended by inserting after section
16 106 the following new section:

17 **“SEC. 106A. TERRORISM BUY-DOWN FUND.**

18 “(a) ESTABLISHMENT.—The Secretary shall estab-
19 lish a Terrorism Buy-Down Fund (in this section referred
20 to as the ‘Fund’) that shall make available additional ter-
21 rorism coverage for the insured losses of insurers, which
22 shall be available for purchase by insurers on a voluntary
23 basis.

24 “(b) PURCHASE OF DEDUCTIBLE, CO-SHARE, AND
25 TRIGGER BUY-DOWN COVERAGE.—

1 “(1) IN GENERAL.—An insurer may purchase
2 deductible, co-share, and pre-trigger buy-down cov-
3 erage (in this section referred to as ‘buy-down cov-
4 erage’) through the Fund by making an election, in
5 advance, to treat some or all of the premiums it has
6 disclosed pursuant to section 103(b)(2) as fee
7 charges for the Program imposed by the Secretary
8 and remitting such amounts to the Fund.

9 “(2) LIMITS.—An insurer may not purchase
10 buy-down coverage in an amount greater than the
11 lesser of—

12 “(A) the highest amount specified in sec-
13 tion 103(e)(1)(C); and

14 “(B) the insurer’s one-in-one-hundred-year
15 risk exposure to acts of terrorism.

16 “(c) BUY-DOWN COVERAGE.—The Fund shall pro-
17 vide the buy-down coverage to an insurer for losses for
18 acts of terrorism, without application of the insurer de-
19 ductible and in addition to any otherwise payable Federal
20 share of compensation pursuant to section 103(e).

21 “(d) BUILD-UP.—The buy-down coverage that shall
22 be payable to an insurer for qualifying losses shall be the
23 aggregate of the insurer’s buy-down coverage premiums
24 plus interest accrued on such amounts.

25 “(e) USE BY INSURERS.—

1 “(1) QUALIFYING LOSSES.—For the purpose of
2 this section, qualifying losses are insured losses by
3 an insurer that are not excess losses and that do not
4 include amounts for which Federal financial assist-
5 ance pursuant to section 103(e) is received, notwith-
6 standing any limits otherwise applicable regarding
7 section 103(e)(1)(C) (regarding program triggers) or
8 section 102(11) (regarding insurer deductibles).

9 “(2) USE OF BUY-DOWN COVERAGE.—An in-
10 surer may use any buy-down coverage payments re-
11 ceived under subsection (f) to satisfy—

12 “(A) the applicable insurer deductibles for
13 the insurer;

14 “(B) the portion of the insurer’s losses
15 that exceed the insurer deductible but are not
16 compensated by the Federal share; and

17 “(C) the insurer’s obligations to pay for in-
18 sured losses if the Program trigger under sec-
19 tion 103(e)(1)(C) is not satisfied.

20 “(3) BUY-DOWN COVERAGE DOES NOT REDUCE
21 FEDERAL CO-SHARE.—The receipt by an insurer of
22 buy-down coverage under this section for insured
23 losses shall not be considered with respect to calcu-
24 lating the insurer’s insured losses with respect to the

1 insurer's deductible and eligibility for Federal finan-
2 cial assistance pursuant to section 103(e).

3 “(4) INSOLVENCY.—An insurer may sell its
4 rights to buy-down coverage from the Fund to an-
5 other insurer as part of or to avoid an insolvency or
6 as part of a merger, sale, or major reorganization.

7 “(f) PAYMENT OF BUY-DOWN COVERAGE.—The
8 Fund shall pay the qualifying losses of an insurer pur-
9 chasing buy-down coverage up to the amount described in
10 subsection (d).

11 “(g) GOVERNMENT BORROWING.—The Secretary
12 may borrow the funds from the Fund to offset, in whole
13 or in part, the Federal share of compensation provided
14 to all insurers under the Program, except that—

15 “(1) the Fund shall always immediately provide
16 any buy-down coverage payments required under
17 subsection (f); and

18 “(2) any such amounts borrowed must be re-
19 plenished with appropriate interest.

20 “(h) RISK-SHARING MECHANISMS.—The Secretary
21 shall establish voluntary risk-sharing mechanisms for in-
22 surers purchasing buy-down coverage from the Fund to
23 pool their reinsurance purchases and otherwise share ter-
24 rorism risk.

1 “(i) **TERMINATION.**—Upon termination of the Pro-
2 gram under section 108, and subject to the Secretary’s
3 continuing authority under section 108(b) to adjust claims
4 in satisfaction under the Program, the Secretary shall pro-
5 vide that the Fund shall become a privately-operated mu-
6 tual terrorism reinsurance company owned by the insurers
7 that have submitted buy-down coverage premiums in pro-
8 portion to such premiums minus any buy-down coverage
9 payments received.”.

10 **SEC. 5. ANALYSIS AND STUDY.**

11 (a) **ANALYSIS OF MARKET CONDITIONS.**—Section
12 108 of the Terrorism Risk Insurance Act of 2002 (15
13 U.S.C. 6701 note) is amended by striking subsection (e)
14 and inserting the following:

15 “(e) **ANALYSIS OF MARKET CONDITIONS FOR TER-**
16 **RORISM RISK INSURANCE.**—

17 “(1) **IN GENERAL.**—The Secretary, in consulta-
18 tion with the NAIC, representatives of the insurance
19 industry, representatives of the securities industry,
20 and representatives of policyholders, shall perform
21 an analysis regarding the long-term availability and
22 affordability of insurance for terrorism risk in the
23 private marketplace, including coverage for—

24 “(A) property and casualty insurance;

25 “(B) group life insurance;

1 “(C) workers’ compensation;

2 “(D) nuclear, biological, chemical, and ra-
3 diological events; and

4 “(E) commercial real estate.

5 “(2) BIENNIAL REPORTS.—The Secretary shall
6 submit biennial reports to the Committee on Finan-
7 cial Services of the House of Representatives and
8 the Committee on Banking, Housing, and Urban Af-
9 fairs of the Senate, on its findings pursuant to the
10 analysis conducted under paragraph (1). The first
11 such report shall be submitted not later than the ex-
12 piration of the 24-month period beginning on the
13 date of the enactment of the Terrorism Risk Insur-
14 ance Revision and Extension Act of 2007.

15 “(3) TESTIMONY.—Upon submission of each bi-
16 ennial report under paragraph (2), the Secretary
17 shall provide oral testimony to the Committee on Fi-
18 nancial Services of the House of Representatives and
19 Committee on Banking, Housing, and Urban Affairs
20 of the United States Senate regarding the report
21 and the analysis under this subsection for which the
22 report is submitted.”.

23 (b) COMMISSION ON TERRORISM RISK INSURANCE.—
24 Title I of the Terrorism Risk Insurance Act of 2002 (15

1 U.S.C. 6701 note) is amended by adding at the end the
2 following new section:

3 **“SEC. 109. COMMISSION ON TERRORISM RISK INSURANCE.**

4 “(a) **ESTABLISHMENT.**—There is hereby established
5 the Commission on Terrorism Risk Insurance (in this sec-
6 tion referred to as the ‘Commission’).

7 “(b) **MEMBERSHIP.**—

8 “(1) The Commission shall consist of 21 mem-
9 bers, as follows:

10 “(A) The Secretary of the Treasury or the
11 designee of the Secretary.

12 “(B) One member who is a State insur-
13 ance commissioner, designated by the NAIC.

14 “(C) 15 members, who shall be appointed
15 by the President, who shall include—

16 “(i) a representative of group life in-
17 surers;

18 “(ii) a representative of property and
19 casualty insurers with direct earned pre-
20 mium of \$1,000,000,000 or less;

21 “(iii) a representative of property and
22 casualty insurers with direct earned pre-
23 mium of more than \$1,000,000,000;

24 “(iv) a representative of multiline in-
25 surers;

1 “(v) a representative of independent
2 insurance agents;

3 “(vi) a representative of insurance
4 brokers;

5 “(vii) a policyholder representative;

6 “(viii) a representative of the sur-
7 vivors of the victims of the attacks of Sep-
8 tember 11, 2001;

9 “(ix) a representative of the reinsur-
10 ance industry;

11 “(x) a representative of workers’ com-
12 pensation insurers;

13 “(xi) a representative from the com-
14 mercial mortgage-backed securities indus-
15 try;

16 “(xii) a representative from a nation-
17 ally recognized statistical rating organiza-
18 tion;

19 “(xiii) a real estate developer;

20 “(xiv) a representative of workers’
21 compensation insurers created by State
22 legislatures, selected in consultation with
23 the American Association of State Com-
24 pensation Insurance Funds from among its
25 members; and

1 “(xv) a representative from the com-
2 mercial real estate brokerage industry or
3 the commercial property management in-
4 dustry.

5 “(D) Four members, who shall serve as li-
6 aisons to the Congress, who shall include two
7 members jointly selected by the Chairman and
8 Ranking Member of the Committee on Finan-
9 cial Services of the House of Representatives
10 and two members jointly selected by the Chair-
11 man and Ranking Member of the Committee on
12 Banking, Housing, and Urban Affairs of the
13 Senate.

14 “(2) SECRETARY.—The Program Director of
15 the Terrorism Risk Insurance Act of the Depart-
16 ment of the Treasury shall serve as Secretary of the
17 Commission. The Secretary of the Commission shall
18 determine the manner in which the Commission
19 shall operate, including funding and staffing.

20 “(c) DUTIES.—

21 “(1) IN GENERAL.—The Commission shall iden-
22 tify and make recommendations regarding—

23 “(A) possible actions to encourage, facili-
24 tate, and sustain provision by the private insur-
25 ance industry in the United States of affordable

1 coverage for losses due to an act or acts of ter-
2 rorism;

3 “(B) possible actions or mechanisms to
4 sustain or supplement the ability of the insur-
5 ance industry in the United States to cover
6 losses resulting from acts of terrorism in the
7 event that—

8 “(i) such losses jeopardize the capital
9 and surplus of the insurance industry in
10 the United States as a whole; or

11 “(ii) other consequences from such
12 acts occur, as determined by the Commis-
13 sion, that may significantly affect the abil-
14 ity of the insurance industry in the United
15 States to cover such losses independently;
16 and

17 “(C) possible actions to significantly re-
18 duce the Federal role in covering losses result-
19 ing from acts of terrorism.

20 “(2) EVALUATIONS.—In identifying and mak-
21 ing the recommendations required under paragraph
22 (1), the Commission shall specifically evaluate the
23 utility and viability of proposals aimed at improving
24 the availability of insurance against terrorism risk in
25 the private marketplace.

1 “(3) INITIAL MEETING.—The Commission shall
2 hold its first meeting during the 3-month period that
3 begins 15 months after the date of the enactment of
4 the Terrorism Risk Insurance Revision and Extension
5 Act of 2007.

6 “(4) REPORTS.—

7 “(A) CONTENTS.—The Commission shall
8 submit two reports to the Congress that—

9 “(i) evaluate and make recommenda-
10 tions regarding whether there is a need for
11 a Federal terrorism risk insurance pro-
12 gram;

13 “(ii) if so, include a specific, detailed
14 recommendation for the replacement of the
15 Program under this title; and

16 “(iii) include the identifications, eval-
17 uations, and recommendations required
18 under paragraphs (1) and (2).

19 “(B) TIMING.—The first report required
20 under subparagraph (A) shall be submitted be-
21 fore the expiration of the 60-month period be-
22 ginning on the date of the enactment of the
23 Terrorism Risk Insurance Revision and Extension
24 Act of 2007. The second such report shall
25 be submitted before the expiration of the 96-

1 month period beginning upon such date of en-
2 actment.”.

3 **SEC. 6. APPLICABILITY.**

4 The amendments made by this Act shall apply begin-
5 ning on January 1, 2008. The provisions of the Terrorism
6 Risk Insurance Act of 2002, as in effect on the day before
7 the date of the enactment of this Act, shall apply through
8 the end of December 31, 2007.